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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,616	08/23/2001	Toshiya Mori	NAK1-BP80	9001

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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626

EXAMINER	
AUSTIN, SHELTON W	

ART UNIT	PAPER NUMBER
2623	

MAIL DATE	DELIVERY MODE
02/06/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/935,616	MORI ET AL.	
	Examiner	Art Unit	
	Shelton Austin	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/30/2007 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 11-18 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,374,405 (Willard) in view of U.S. Patent No. 5,448,568 (Delpuch).

Regarding claim 11, Willard discloses a broadcasting apparatus (fig. 1 item 10) that broadcasts broadcast programs (col.4, lines 18-35); each of which is to be

reproduced by a receiving apparatus (fig. 1 item 20) in a reproduction time period between a reproduction starting time and a reproduction finishing time (i.e., where each program is reproduced, col.8, lines 5-14, each is inherently reproduced between a reproduction starting time and finishing time), the broadcast apparatus comprising:

a scheduling unit (fig. 3 item 34) to generate a schedule for transmitting the broadcast programs (col. 5, line 55-col. 6 line 16), the schedule including a transmission starting time and a transmission finishing time for each broadcast program (broadcast schedule for television programs, col. 5, lines 2-8; transmission start times and delivery times for interactive applications, col. 6, lines 34-42), and

wherein the scheduling unit generates the schedule so that (a) as for a specific program (fig. 7a, MOD. 1) among the broadcast programs, a transmission starting time (*id.* S_1) which is a predetermined amount of time (*id.* I_1) before the reproduction starting time (*id.* D_1) of the specific program and a transmission finishing time is set at the reproduction starting time of the specific program (col. 9, lines 16-41; col. 4, lines 50-60), and (b) as for a broadcast program other than the specified program (i.e., a television program), a transmission starting time is set at the reproduction starting time of the broadcast program and a transmission finishing time is set at the reproduction finishing time of the broadcast program (where television programs are processed and reproduced at receiving station as they are received, col. 8, lines 5-15, transmission start and finish times correspond with reproduction start and finish times, respectively),

the predetermined amount of time in the schedule generated by the scheduling unit is a time period necessary for transmitting the specific program at least once (col. 9, lines 36-42, col. 2, lines 59-61),

the scheduling unit includes generation unit to generate first messages (fig. 5 item 58) which specify the specific program and instruct the receiving apparatus to store the specific program (col. 7, lines 47-65) in a storing unit (fig. 6 item 67) within the receiving apparatus (col.9, lines 61-66); and

a transmission unit (fig. 3 items 33, 34) repeatedly transmits the first messages (i.e., transmit aux packet 58 for each of transmission units 54a-c of module 51; see fig. 5) for a duration from the transmission starting time to the transmission finishing time of the specific program (col. 6, lines 7-17; col. 7, lines 54-65), wherein the first messages are multiplexed with data modules containing data of the specific program (figs. 3 & 5; col. 5, line 55-col. 6, line 16), the transmission unit repeatedly (cyclically, col. 8, lines 22-29) transmits contents including scripts (i.e., application code) for control for a duration from a broadcasting starting time of the specific program to a reproduction finishing time of the specific program (col. 7, line 28-col. 8, line 37), and the scripts for control perform control so that the specific program is stored in case of receiving the first message (col. 7, lines 54-65).

Willard, however, is silent with respect to the second message and performing control so that the specific program is reproduced in case of receiving the second message.

In an analogous art, Delpuch discloses an apparatus and corresponding method for transmitting an interactive A/V program (abstract), the system comprising:

a scheduling unit (fig. 1 item 16) operable to generate the claimed second message, which specifies the specific program and instructs the receiving apparatus to reproduce (e.g., resume) the specified specific program stored in the storing unit (col. 3, line 63-col. 4, line 4; col. 5 lines 44-45);

a transmission unit (fig. 1 item 28) operable to repeatedly transmit the second message (col. 11, lines 39-59) in the transmission time period of the specific program (col. 11, lines 19-26), and

the scripts for control perform control so that the specific program is reproduced in case of receiving the second message (col. 11, lines 27-38).

Delpuch further discloses that use of the second message alleviates situations resulting in undesirable displays produced by the interactive program (col. 10, lines 29-52), and that repeatedly transmitting the second message enhances the probability of reception (col. 11, lines 55-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Willard to include generating and repeatedly transmitting the second message and performing control so that the specific program is reproduced in case of receiving the second message, as taught by Delpuch, to improve presentation of interactive programs in the broadcasting system.

Regarding claim 12, Willard and Delpuch together disclose the apparatus of claim 11 wherein the generation unit generates a third message which specifies the specific program and instructs the receiving apparatus to delete the specific program stored in the storing unit (Delpuch: col. 10, lines 53-64).

Regarding claims 13-16, see Willard and Delpuch as applied to claims 11 and 12, above. Willard further discloses a computer-readable medium storing therein a computer program that, when executed, causes a broadcasting apparatus to perform a method comprising steps corresponding to the functions performed by the disclosed broadcasting apparatus (Willard: col. 6, lines 47-51).

Regarding claim 17, Willard and Delpuch disclose the broadcast system of claim 16 wherein the transmit unit transmits a control script that commands the receiver to execute (resume execution of) at least a portion of the main program (Delpuch: col. 10, lines 53-64).

Regarding claim 18, Willard and Delpuch disclose the broadcast system of claim 16 wherein the transmit unit transmits a command that commands the receiver to save at least a portion (store current status) of the data program (Delpuch: col. 10 11.58-60).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelton Austin whose telephone number is (571) 272-9385. The examiner can normally be reached on Monday through Thursday from 8:00-5:30. The examiner can also be reached on Fridays from 9:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant, whose telephone number is (571) 272-7294, can be reached on Monday through Friday from 7:30-5:00. The supervisor can also be reached on alternate Fridays from 9:00-4:00. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shelton Austin

CHRISTOPHER GRANT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600